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10341

Commissioner Lemmond introduced the following Ordinance, which was read at length:

### **An Ordinance To Regulate Noise**

**BE IT ORDAINED** by the Board of Commissioners of Lee County;

#### **Section 1. Loud or Disturbing Noise Prohibited.**

Subject to the provisions of this Ordinance, the creation of any reasonably loud, disturbing and unnecessary noise is prohibited. Noise of such character, intensity and duration as to be detrimental to the life or health of any individual is prohibited, and no person, firm or corporation shall create or assist in creating such prohibited noise.

#### **Section 2. Creating Public Disturbance.**

- (a) The gathering of any group on the sidewalks, streets, or public places within the County for the purpose of creating, or which creates, mechanical, vocal or other sound which is of such intensity or nature to interfere with the rights of peaceful occupancy of the property owners in the adjoining areas is unlawful. Any person who participates in, leads, directs or encourages such actions shall be guilty of violating this section.
- (b) Nothing in this section shall prevent the orderly expression of spectators at any regularly organized sporting event or the peaceful assembly of any group for orderly expression or communication between those assembled.

#### **Section 3. Radios, Tape Recorders and Similar Devices.**

- (a) Prohibited acts. No person shall play, use or operate, or permit to be played, used or operated, any radio, tape recorder, cassette player, or other machine or device for the reproducing of sound, if it is located in or on any of the following:
  - (1) Any public property including any public street, highway, building, sidewalk, park, thoroughfare, or public or private parking lots;
  - (2) Any motor vehicle on a public street, highway or public space, or within the motor vehicular area of any public or private parking lot or parks;

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and if at the same time the sound generated is audible at a distance of thirty (30) feet from the radio, tape recorder, cassette player, or other machine or device that is producing the sound.

(b) Responsibility for Violations.

Possession by a person of any radio, tape recorder, cassette player or other machine or device for reproducing sound as enumerated in subsection (a) of this section shall be prima-facie evidence that such person operates the radio, tape recorder, cassette player, or other machine or device for reproducing sound.

(c) Issuance of Citation: Arrest.

Any law enforcement officer shall issue a citation for any violation under this section, except that they may arrest for instances when:

- (1) The alleged violator refuses to provide the officer with such persons name and address and any proof thereof as may be reasonably available to the alleged violator; or
- (2) The alleged violator refuses to cease such illegal activity after being issued a citation.

(d) Exceptions.

The provisions of this section shall not apply to certain countywide festivals, parades or events which are open to the public and where the persons undertaking the festival, parade or event have previously obtained from the proper authority of the county a proper special events permit allowing the outdoor performance of a band, machine or device which may reproduce sound audible more than thirty (30) feet away.

Section 4. Civil Penalty: Citations.

- (a) Any person, firm or corporation violating any provision of this Ordinance shall be subject to a civil penalty in the amount of \$100.00 for each offense, and separate offenses shall be deemed committed on each day during or on which a violation occurs or continues.
- (b) Any person, firm or corporation found to be in violation of any provision of this ordinance shall be issued a citation which shall, among other things:

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- (1) State upon its face the amount of the civil penalty and that it shall be paid within forty-eight (48) hours from and after such violation;
- (2) Notify such offender failure to pay the penalty within the prescribed time shall subject the offender to a civil action in the nature of the debt for the stated penalty plus the cost of the action to be taxed in the court:

Section 5. This ordinance shall be in full force and effective upon its adoption.

After discussion, the foregoing was adopted. The following Commissioner voted in the affirmative: Adams, Hincks, Lemmond, Matthews, Paschal, Reives, and Stevens

The following Commissioners voted in the negative: N/A

Adopted this the 18<sup>th</sup> day of August 2003.

  
Herbert A. Hincks, Chairman



  
Gavriel M. Lee, Clerk